

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>Plaintiff,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>vs.</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>NESTOR ALVAREZ,</p> <p style="text-align: right;">)</p> <p style="text-align: right;">)</p> <p>Defendant.</p> <p style="text-align: right;">)</p>	<p style="margin-top: 100px;">)</p>	<p>8:16CR193</p> <p>ORDER</p>
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This matter is before the court on the motion of defendant Nestor Alvarez (Alvarez) to be released from detention and placed in a long term treatment program (Filing No. 21) and the government's motion for detention pending disposition of the case. The court held a hearing on the request on July 26, 2016. The court received a chemical dependency evaluation into evidence (Exhibit 101),

Alvarez is charged in the Indictment with a conspiracy to possess with intent to distribute methamphetamine during the period of February 23, 2016, through June 7, 2016, in violation of 21 U.S.C. §846 (Count I), the June 6, 2016, possession of methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count II), and use of several firearms, i.e., a Romanian-Arms GP WASR 10 and an Astra Model A100, during a drug trafficking offense, and a forfeiture allegation involving approximately \$35,000. Counts I and II carry a minimum sentence of ten years imprisonment with a maximum of life imprisonment. The weapons charge carries a mandatory minimum of a five year consecutive term of imprisonment to any sentence on the drug charges.

Alvarez was born in California in 1984 where he lived until he moved to Omaha in 1997. He has family in Omaha and is separated from his wife who has custody of their two pre-teen children. He was employed in construction and self employed in auto repair. In his pretrial services interview, he admitted the occasional use of methamphetamine (last use 5 months ago), a weekly use of marijuana, and the weekly use of alcohol (beer). He reported attending treatment on multiple occasions and participated in AA and anger management treatment. He did not feel he would benefit from further treatment.

Alvarez has a lengthy arrest record which contains 45 entries including the present charges. Many of those entries were for driving violations, including driving under

suspension. Such entries also revealed a high propensity for failure to appear. Several of the convictions also involved the display of fictitious license plates. Alvarez was convicted of the possession of drug paraphernalia in 2003, theft and drug possession in 2004, domestic assault in 2007 and child abuse in 2011. At the time of his arrest in 2016, he was in the possession of multiple pounds of methamphetamine, \$35,000.00 in U.S. currency, and the two firearms described in the indictment. One of the firearms was in the couch where he was seated when he was arrested.

Alvarez has demonstrated an absolute disregard for the order of the court as exemplified by his driving a vehicle during suspension on numerous occasions and failing to appear for court proceedings. The grand jury found he was active in the drug business since February 2016. While he informed Pretrial Services he resided in west Omaha, he was arrested in a drug house in south Omaha with guns, money and drugs. While he may have family in the Omaha area, that is no assurance he will appear in court if released. Further he is a danger to this community due to the amount of methamphetamine he is charged with and the guns he used in his drug trafficking. The drug evaluation is sketchy at best and exemplifies a person who wants to be freed from corrections when he is facing a substantial sentence for his drug trafficking.

I find Alvarez should be detained in custody pending the disposition of this case, and he is committed to the custody of the U.S. Marshal pending disposition of this case. His request to be placed in long term drug treatment (Filing No. 21) is denied.

IT IS SO ORDERED.

DATED this 1st day of August, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge